IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITON NO.5776 OF 2005

M/s.Mather and Platt (India) Ltd.
and anr. .. Petitioners

v/s.

Sham Deepchand Mahboobani .. Respondent

Mr.K.D.Parekh i/by M/s.Sonal Doshi & Co. for the petitioners.

Mr.Tamhane for the respondent.

CORAM : SMT.NISHITA MHATRE, J.

DATED : 5th October, 2005

P.C.

By the concurrent findings of facts, both the courts below have found that the suit should be decreed on the ground of reasonable and bonafide requirement of the respondent. The plaintiff had pleaded in his suit that he is a resident of Indonesia and decided to return to India on account of the conditions prevailing in Indonesia. He has also pleaded that he required medical treatment in India and that he and his wife wanted to return in order to look after his mother in law who is ill. Both the courts below have considered the fact that the respondent had proved that the situation in Indonesia was not suitable for the respondent to reside continuously in that country. Both the courts below have found that the respondent has required the suit premises reasonably and bonafide

for residing in the premises on account of his mother-in-law's ill-health. The comparative hardship has also been considered by the courts below. The suit premises were unused by the petitioners for a considerably long period. They had also sold other premises which they owned which fetched them crores of rupees. The Courts below were of the view that the hardship which would be caused to the landlord was greater if the suit was not decreed. I see no reason to interfere with the order of the both the courts below. Hence rejected.

2. Time to vacate the suit premises is granted up to 31st March, 2006 on the usual undertaking being furnished by the petitioner within two weeks from today.

(SMT.NISHITA MHATRE, J.)